

DAVID YEREMIAN & ASSOCIATES, INC.
David Yeremian (SBN 226337)
david@yeremianlaw.com
Alvin B. Lindsay (SBN 220236)
alvin@yeremianlaw.com
535 N. Brand Blvd., Suite 705
Glendale, California 91203
Telephone: (818) 230-8380
Facsimile: (818) 230-0308

DAVTYAN PROFESSIONAL LAW CORPORATION
Emil Davtyan (SBN 299363)
emil@davtyanlaw.com
21900 Burbank Blvd., Suite 300
Woodland Hills, California 91367
Telephone: (818) 992-2935
Facsimile: (818) 975-5525

Attorneys for Plaintiff DARIUS ROWSER and AMITA GUPTA
on behalf of themselves and all others similarly situated

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

DARIUS ROWSER, an individual, and
AMITA GUPTA, an individual, on
behalf of themselves and all others
similarly situated,

Case No.: 2:17-cv-05064-DSF-RAO

Class and Collective Action

Assigned for all purposes to:

Hon. Dale S. Fischer, Courtroom 7D

Plaintiffs.

VS.

TRUNK CLUB, INC., a Delaware corporation; and DOES 1 through 10, inclusive.

Defendants.

SECOND AMENDED COLLECTIVE AND CLASS ACTION COMPLAINT

(1) FAIR LABOR STANDARDS ACT (29 U.S.C. § 201, ET SEQ.)

**(2) FAILURE TO PAY MINIMUM
WAGES (CAL. LABOR CODE
§§ 1182.11-1182.13, 1194, 1194.2,
1197)**

(3) FAILURE TO PAY WAGES AND OVERTIME (CAL. LABOR CODE § 510)

**(4) MEAL-PERIOD LIABILITY
(CAL. LABOR CODE § 226.7)**

**(5) REST BREAK LIABILITY
(CAL. LABOR CODE § 226.7)**

- (6) FAILURE TO REIMBURSE FOR NECESSARY EXPENDITURES (CAL. LABOR CODE § 2808)**
- (7) WAITING TIME PENALTIES (CAL. LABOR CODE §§ 201, 202, AND 203)**
- (8) VIOLATION OF CAL. LABOR CODE § 226(A)**
- (9) UNFAIR COMPETITION (CAL. BUSINESS AND PROFESSIONS CODE §§ 17200, *ET SEQ.*)**
- (10) PENALTIES PURSUANT TO THE PRIVATE ATTORNEY GENERAL ACT (CAL. LABOR CODE § 2699, *ET SEQ.*)**
- (11) VIOLATION OF ILLINOIS WAGE PAYMENT AND COLLECTION ACT (IWPCA, 820 ILCS § 115/1 *ET. SEQ.*)**
- (12) VIOLATION OF ILLINOIS MINIMUM WAGE LAW, 820 ILCS § 105/4A *ET. SEQ.*)**

JURY TRIAL DEMANDED

Original Complaint: July 10, 2017

Amended Complaint: August 17, 2017

1 Plaintiff Darius Rowser and Plaintiff Amita Gupta (“Plaintiffs”), on behalf of
2 themselves and all others similarly situated, hereby bring this Collective and Class
3 Action Complaint against Trunk Club, Inc., a Delaware corporation (“Trunk Club”
4 or “Defendant”), and Does 1 through 10 inclusive (Trunk Club and Does 1 through
5 10, inclusive shall hereinafter collectively be referred to as “Defendants”), and on
6 information and belief allege as follows:

7 **JURISDICTION**

8 1. Plaintiffs, on behalf of themselves and all others similarly situated,
9 hereby bring this class and collective action for recovery of unpaid wages, including
10 overtime wages, under the Fair Labor Standards Act (“FLSA”), the California Labor
11 Code (“California Labor Code”), the Illinois Wage Payment and Collection Act, and
12 Illinois Minimum Wage Law (“Illinois Wage Laws”).

13 2. This Court has jurisdiction over Defendants’ violations of the FLSA
14 pursuant to 29 U.S.C. § 216 and 28 U.S.C. § 1331 because the action asserts rights
15 arising under federal law. Defendants’ annual sales exceed \$500,000, and they have
16 more than two employees, so the FLSA applies in this case on an enterprise basis.
17 Additionally, the Court also has pendent jurisdiction over the related California
18 Labor Code and Illinois Wage Laws claims under 28 U.S.C. § 1337.

19 3. This Court has personal jurisdiction over Defendant because Defendant
20 maintains its principal place of business within this judicial district.

21 **VENUE**

22 4. Venue is proper under 28 U.S.C. 1331(c) because Defendants do and
23 operate a business within this judicial district and the acts alleged herein took place,
24 at least in part, within this judicial district.

25 5. Further, Plaintiffs at all times relevant herein, were employed by
26 Defendants in California or Illinois.

1

PARTIES

2 6. Plaintiffs are individuals over the age of eighteen (18). At all relevant
3 times herein, Plaintiff Rowser was and currently is, a California resident, residing in
4 this judicial district. At all relevant times herein, Plaintiff Gupta was and currently
5 is, an Illinois resident.

6 7. Defendant Trunk Club, Inc. is licensed to do business in the State of
7 California and its registered agent for service of process in California is Corporation
8 Creations Network, Inc., located at 1430 Truxtun Ave., 5th Floor, Bakersfield,
9 California 93301. Defendant Trunk Club, Inc. is licensed to do business in the State
10 of Illinois and its registered agent for service of process in Illinois is Corporation
11 Creations Network, Inc., located at 350 S. Northwest Hwy, Ste 300, Park Ridge,
12 Illinois 60068.

13 8. During the three years immediately preceding the filing of the
14 Complaint in this action and within the statute of limitations periods applicable to
15 the First Cause of Action pled herein, Defendants employed Plaintiff Rowser,
16 Plaintiff Gupta and other hourly non-exempt employees within the United States
17 (collectively “FLSA Class Members”). FLSA Class Members were, and/or are,
18 victims of Defendants’ policies and/or practices complained of herein, lost money
19 and/or property, and have been deprived of the rights guaranteed to them by the
20 FLSA.

21 9. During the four years immediately preceding the filing of the
22 Complaint in this action and within the statute of limitations periods applicable to
23 the Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth and Tenth Causes of
24 Action pled herein, Defendants employed Plaintiff Rowser and other hourly non-
25 exempt employees within the State of California (collectively “California Class
26 Members”).

27 10. During the ten years immediately preceding the filing of the Complaint
28 in this action and within the statute of limitations periods applicable to the Eleventh

1 and Twelfth Causes of Action pled herein, Defendants employed Plaintiff Gupta and
2 other hourly non-exempt employees within the State of Illinois (collectively “Illinois
3 Class Members”).

4 11. Plaintiffs are informed and believe, and thereon allege, that at all times
5 mentioned herein, Defendants were the employer of Plaintiffs, the FLSA Class
6 Members, the California Class Members and the Illinois Class Members because
7 they: (1) exercised control over the wages, hours, or working conditions of Plaintiffs
8 and the Classes; (2) suffered or permitted Plaintiffs and the Members of the Classes
9 to work; or (3) engaged Plaintiffs and the Members of the Classes to work, thereby
10 creating a common law employment relationship.

11 12. Plaintiffs are informed and believe and thereon allege that each of the
12 Defendants, including the Doe defendants, acted in concert with each and every
13 other Defendant, intended to and did participate in the events, acts, practices and
14 courses of conduct alleged herein, and was a proximate cause of damage and injury
15 thereby to Plaintiffs, the FLSA Class Members, the California Class Members, and
16 the Illinois Class Members as alleged herein.

17 13. Based in Chicago, Illinois, Trunk Club, a subsidiary of Nordstrom,
18 offers personalized styling and sales of clothing to customers throughout the United
19 States. According to its website, “[a]s a Nordstrom company, Trunk Club has the
20 service, selection, and convenience of one of the world’s best retailers—you can
21 even earn Nordstrom rewards.” Available at <https://www.trunkclub.com>.

22 14. Plaintiffs do not know the true names or capacities, whether individual,
23 partner, or corporate, of the Defendants sued herein as DOES 1 to 10, inclusive, and
24 for that reason, said Defendants are sued under such fictitious names, and Plaintiffs
25 will seek leave from this Court to amend this Complaint when such true names and
26 capacities are discovered. Plaintiffs are informed, and believe, and thereon allege,
27 that each of said fictitious Defendants, whether individual, partners, agents, or
28 corporate, was responsible in some manner for the acts and omissions alleged

1 herein, and proximately caused Plaintiffs, the FLSA Class Members, the California
2 Class Members, and the Illinois Class Members to be subject to the unlawful
3 employment practices, wrongs, injuries and damages complained of herein.

4 15. At all times herein mentioned, each of said Defendant participated in
5 the doing of the acts hereinafter alleged to have been done by the named Defendant;
6 and each of them were the agents, servants, and employees of each and every one of
7 the other Defendants, as well as the agents of all Defendants, and at all times herein
8 mentioned were acting within the course and scope of said agency and employment.
9 Defendants, and each of them, approved of, condoned, and/or otherwise ratified
10 each and every one of the acts or omissions complained of herein.

11 16. At all times mentioned herein, Defendant was a member of and
12 engaged in a joint venture, partnership, and common enterprise, and acting within
13 the course and scope of and in pursuance of said joint venture, partnership, and
14 common enterprise. Further, Plaintiffs allege that all Defendants were joint
15 employers for all purposes of Plaintiffs, the FLSA Class Members, the California
16 Class Members, and the Illinois Class Members.

ADMINISTRATIVE REMEDIES

18 17. Pursuant to California Labor Code § 2699.3 and other provisions of
19 California law, Plaintiff Rowser has exhausted all administrative remedies and
20 satisfied all private, administrative, and judicial prerequisites to the institution of
21 this action. Specifically, on **June 13, 2017**, Plaintiff Rowser sent notice to the
22 California Labor and Workforce Development Agency (LWDA) and Defendant
23 including specific provisions of the California Labor Code that have been violated
24 and facts and theories to support such violations. The LWDA has not provided
25 notice of its intent to investigate the alleged violations within 65 calendar days of
26 the notice.

27 18. Pursuant to California Labor Code § 2699.3 and other provisions of
28 California law, Plaintiff Rowser is not required to satisfy any other private,

1 administrative or judicial prerequisites to the institution of this action and therefore
2 has exhausted all appropriate administrative remedies.

3 **GENERAL FACTUAL ALLEGATIONS**

4 19. Plaintiff Rowser was employed by Defendants within the statutory
5 time frame as a non-exempt employee in Los Angeles, California.

6 20. Plaintiff Gupta was employed by Defendants within the statutory time
7 frame as a non-exempt employee in Chicago, Illinois.

8 21. During the employment of the FLSA Class Members, the California
9 Class Members, and the Illinois Class Members (collectively “Class Members”)
10 with Defendants, Defendants’ policy and practice was to pay Class Members on a
11 draw system, where Class Members would earn commission pay, versus an hourly
12 wage. Class Members regularly worked in excess of eight (8) hours a day, and or
13 forty (40) hours a week. However, Defendants knowingly permitted and required
14 Class Members to perform work, off-the-clock, as part of their regular working
15 hours, for which Class Members were not paid wages. Specifically, Class Members
16 were required to perform off-the-clock work, under Defendants’ employ including,
17 but not limited to: working from home, communicating with clients, attending
18 involuntary work related events after working hours, conducting involuntary
19 independent study and homework, and attending involuntary training and classroom
20 sessions, all directly related to Class Members’ job under Defendants’ employment,
21 and all in excess of their scheduled shifts and for which they were never paid wages.

22 22. Class Members were pressured by Defendants to perform all the
23 uncompensated work above. Accordingly, Defendants were aware that Class
24 Members were working these off-the-clock hours, without proper compensation.
25 These additional uncompensated working hours were directly related to the Class
26 Members’ jobs.

27 23. All this additional uncompensated time, discussed above, was not
28 factored into Class Members’ draw versus commission pay amounts. Accordingly,

1 Defendants defective policies and practices resulted in Class Members working
2 hours under Defendants' employ without being paid all wages, including all
3 required overtime wages earned for hours worked in excess of eight (8) hours a day
4 and/or forty (40) hours a week.

5 24. All the uncompensated working time performed by Class Members,
6 discussed above, were integral and indispensable to the job duties and
7 responsibilities of Plaintiffs and the Class Members.

8 25. The FLSA Class Members include all of Defendants' current and
9 former hourly non-exempt employees who worked at any of Defendants' locations
10 throughout the United States, including but not limited to its locations in: Los
11 Angeles, California; Boston, Massachusetts; Charleston, South Carolina; Chicago,
12 Illinois; Highland Park, Illinois; Dallas, Texas; Washington, D.C.; and New York,
13 New York, and who were not paid all wages and overtime, due to Defendants'
14 policy and/or practice of requiring Class Members to work additional working hours
15 without compensation, during the three years immediately preceding the filing of the
16 Complaint through the present. The California Class Members include only those
17 current and former hourly non-exempt employees who worked in California. The
18 Illinois Class Members include only those current and former hourly non-exempt
19 employees who worked in Illinois.

20 26. Plaintiff Rowser has filed a consent to join this FLSA Collective
21 Action, attached to this Complaint as Exhibit A.

22 27. Plaintiff Gupta has filed a consent to join this FLSA Collective Action,
23 attached to this Complaint as Exhibit B.

24 28. At all relevant times, Defendants directed and directly benefited from
25 the uncompensated work performed by Plaintiffs and the Class Members.

26 29. At all relevant times, Defendants controlled the work schedules, duties,
27 protocols, applications, assignments and employment conditions of Plaintiffs and
28 Class Members.

1 30. At all relevant times, Defendants were able to track the amount of time
 2 Plaintiffs and Class Members spent performing uncompensated work under
 3 Defendants' employ, as discussed herein; however, Defendants failed to document,
 4 track, or pay Plaintiffs and Class Members for the off-the-clock work they
 5 performed. At all relevant times, Plaintiffs and Class Members were non-exempt
 6 hourly employees, subject to the requirements of the FLSA. At all relevant times,
 7 Defendants used their training, home study, sales, work event, and general
 8 employment policies against Plaintiffs and Class Members in order to cause them
 9 into performing off-the-clock work. At all relevant times, Defendants' policies and
 10 practices deprived Plaintiffs and Class Members of wages owed for uncompensated
 11 work they performed under Defendants' employ. Because Plaintiffs and Class
 12 Members typically worked 40 hours or more in a workweek, Defendants' policies
 13 and practices also deprived them of overtime pay.

14 31. Defendants knew or should have known that the uncompensated
 15 working time spent by Plaintiffs and Class Members is compensable under the law.
 16 Indeed, there is no conceivable way for Defendants to establish that it acted in good
 17 faith.

18 **COLLECTIVE AND CLASS ACTION ALLEGATIONS**

19 32. Plaintiffs bring this action pursuant to 29 U.S.C. § 216 of the FLSA
 20 and Rule 23 of the Federal Rules of Civil Procedure ("FRCP"). Plaintiffs seek to
 21 represent themselves and 3 classes of individuals:

- 22 1) Collective Action Class Pursuant to 29 U.S.C. § 216 of the FLSA, "*All*
 23 *current and former hourly non-exempt employees who worked for*
 24 *Defendant at any time from three years prior to the filing of this*
 25 *Representative Action Complaint through judgment*" (the "FLSA
 26 *Class*");
- 27 2) Class Action Pursuant to Rule 23 of the FRCP, "*All non-exempt hourly*
 28 *employees, who worked for Defendant, within the State of California,*

from four years prior to the filing of this Class Action Complaint through judgment” (the “California Class”); and

3) Class Action Pursuant to Rule 23 of the FRCP, “All non-exempt hourly employees, who worked for Defendant, within the State of Illinois, from 10 years prior to the filing of this Class Action Complaint through judgment” (the “Illinois Class”).

7 33. Defendant is liable under the FLSA for, *inter alia*, failing to properly
8 compensate Plaintiffs and FLSA Class Members for all hours worked.

9 34. Consistent with Defendants' policy, pattern, or practice, Plaintiffs and
10 the FLSA Class Members were not paid premium overtime compensation when they
11 worked beyond 40 hours in a workweek.

12 35. Defendant is also liable to the California Class Members under the
13 California Labor Code for their common policy, practice, and/or pattern of: failing
14 to pay minimum wages for all hours worked; failing to pay proper overtime in
15 violation of California Labor Code § 510 for all hours worked; failing to provide
16 compliant meal periods and rest breaks, or premium pay in lieu thereof, in violation
17 of California Labor Code §§ 512 and 226.8; failing to reimburse for necessary
18 business expenditures in violation of California Labor Code § 2802; failing to issue
19 accurate itemized wage statements in violation of California Labor Code § 226(a);
20 Waiting time penalties under California Labor Code § 203; unfair competition under
21 California Business and Professions Code § 17200, *et seq.*; and penalties under the
22 Private Attorney General Act, Ca. Labor Code § 2699, *et seq.* (“PAGA”).

23 36. Defendant is also liable to the Illinois Class Members under Illinois
24 Wage Payment and Collection Act, 820 ILCS § 115/1 *et seq.* ("IWPCA"), and the
25 Illinois Minimum Wage Law, 820 ILCS § 10⁵/1 *et seq.* ("IMWL"), based on
26 Defendant's common policy, practice, and/or pattern of: failing to pay minimum
27 wages for all hours worked and failing to pay proper overtime to Plaintiff Gupta and
28 the Illinois Class Members.

Common Questions of Law and Fact Predominate/ Well Defined Community of Interest

3 37. There are common questions of law and fact as to Plaintiffs and all
4 other similarly situated employees, which predominate over questions affecting only
5 individual members including, without limitation to, whether Defendants' policies
6 and/or practices of:

- a. Requiring Plaintiffs and FLSA Class Members to work hours without compensations and, as a result, failing to properly compensate Plaintiffs and FLSA Class Members minimum wages and overtime for all overtime hours worked;
- b. Requiring Plaintiff Rowser and the California Class Members to work hours without compensation and, as a result, failing to properly compensate Plaintiff Rowser and the California Class Members minimum wages and overtime for all overtime hours worked;
- c. Failing to provide the California Class Members with compliant rest breaks, or premium pay in lieu thereof, in violation of California Labor Code §§ 512 and 226.7;
- d. Failing to provide the California Class Members with compliant meal periods, or premium pay in lieu thereof, in violation of California Labor Code §§ 512 and 226.7;
- e. Failing to reimburse the California Class Members for necessary business expenditures incurred while executing their duties under Defendants' employ, in violation of California Labor Code § 2802;
- f. Failing to issue accurate itemized wage statements to the California Class Members, in violation of California Labor Code § 226(a);
- g. Failing to pay final wages to the California Class Members in accordance with California Labor Code §§ 201 and 202;

- h. Engaging in unfair competition or business practices in violation of California Business and Professions Code § 17200, *et seq.*;
- i. Failing to pay the California Class Members on a semi-monthly basis in accordance with California Labor Code § 204;
- j. Failing and refusing to pay Plaintiff Gupta and the Illinois Class Members all their wages earned in accordance with IWPCA, 820 ILCS § 115/1 *et seq.*; and,
- k. Requiring Plaintiff Gupta and the Illinois Class Members to work hours without compensation and, as a result, failing to properly compensate Plaintiff Gupta and the Illinois Class Members minimum wages and overtime for all overtime hours worked in violation of the overtime compensation provisions of the Illinois Minimum Wage Law, 820 ILCS § 105/4a.

Predominance of Common Questions

38. Common questions of law and fact predominate over questions that affect only individual Class Members. The common questions of law set forth above are numerous and substantial and stem from Defendants' uniform policies and/or practices of violating the FLSA, California Labor Code, Illinois IWPCA and IMWL above. As such, these common questions predominate over individual questions concerning each individual Class Member's showing as to his or her eligibility for recovery or as to the amount of damages.

Typicality

39. The claims of Plaintiffs are typical of the claims of the FLSA Class, the California Class and the Illinois Class because Plaintiffs were employed by Defendants as an hourly non-exempt employee in either California or Illinois, and the United States, during the statute of limitations period. As alleged herein, Plaintiffs, like the members of the Class, were deprived wages for all hours worked including all overtime wages under the FLSA, compliant meal and rest breaks,

1 reimbursements for necessary expenditures incurred, compliant wage statements,
2 and the timely payment of final wages, all due to Defendants' common policies
3 and/or practices.

4 **Adequacy of Representation**

5 40. Plaintiffs are fully prepared to take all necessary steps to fairly and
6 adequately represent the interests of FLSA Class Members, California Class
7 Members and Illinois Class Members. Moreover, Plaintiffs' attorneys are ready,
8 willing and able to fully and adequately represent the members of each Class and
9 Plaintiffs. Plaintiffs' attorneys have prosecuted numerous wage-and-hour class
10 actions in state and federal courts, and are committed to vigorously prosecuting this
11 action on behalf of Plaintiffs, FLSA Class Members, California Class Members and
12 Illinois Class Members.

13 **Superiority**

14 41. The FLSA, the California Labor Code, and IWPCA and IMWL are
15 remedial in nature and serve an important public interest in establishing minimum
16 working conditions and standards throughout California, Illinois and the United
17 States. These labor standards protect the average working employee from
18 exploitation by employers who have the responsibility to follow the laws and who
19 may seek to take advantage of superior economic and bargaining power in setting
20 onerous terms and conditions of employment.

21 **FIRST CAUSE OF ACTION**

22 **(29 U.S.C. § 216(b) Collective Action)**

23 **VIOLATION OF THE FAIR LABOR STANDARDS ACT**

24 **29 U.S.C. § 201, ET SEQ.**

25 **FAILURE TO PAY WAGES AND OVERTIME**

26 **(By Plaintiffs and all FLSA Class Members against all Defendants)**

27 42. Plaintiffs re-allege and incorporate all previous paragraphs set forth
28 herein.

1 43. At all times relevant to this action, Defendants were subject to the
2 mandates of the FLSA, 29 U.S.C. § 201, *et seq.* *See also* 29 C.F.R. § 791.2(b).

3 44. At all times relevant to this action, Plaintiffs were “employees” of
4 Defendants within the meaning of 29 U.S.C. § 203(e)(1) of the FLSA.

5 45. Plaintiffs and other FLSA Class Members, by virtue of their job duties
6 and activities actually performed, are all non-exempt employees.

7 46. At all times relevant to this action, Defendants “suffered or permitted”
8 Plaintiffs and the FLSA Class Members to work, and thus “employed” them within
9 the meaning of 29 U.S.C. § 203(g) of the FLSA.

10 47. At all times relevant to this action, Defendants required Plaintiffs and
11 FLSA Class Members to perform work under Defendants employ but failed to pay
12 them the federally mandated wages and overtime compensation for all services
13 performed. Specifically, FLSA Class Members were required to perform off-the-
14 clock work, under Defendants’ employ including, but not limited to: working from
15 home; communicating with clients; attending involuntary work related events after
16 working hours; conducting involuntary independent study and homework; and
17 attending involuntary training and classroom sessions, all directly related to FLSA
18 Class Members’ job under Defendants’ employ; all in excess of their scheduled
19 shifts; and for which they were never paid mandatory wages.

20 48. The uncompensated work performed by Plaintiffs and FLSA Class
21 Members was an essential part of their jobs and these activities and the time
22 associated with these activities is not *de minimis*.

23 49. In workweeks where Plaintiffs and other FLSA Class Members worked
24 40 hours or more, the uncompensated off-the-clock work time, and all other
25 overtime should have been paid at the federally mandated rate of 1.5 times each
26 employee’s regular hourly wage, including the shift differential where applicable. 29
27 U.S.C. § 207.

28

1 50. Defendants' violations of the FLSA were knowing and willful.
2 Defendants knew or could have determined how long it takes for the FLSA Class
3 Members to perform this uncompensated and off-the-clock work. Further,
4 Defendants could have easily accounted for and properly compensated Plaintiffs and
5 the FLSA Class Members for these work activities, but refused to do so.

6 51. The FLSA, 29 U.S.C. § 216(b), provides that as a remedy for a
7 violation of the Act, an employee is entitled to his or her unpaid wages (including
8 unpaid overtime), plus an additional equal amount in liquidated damages (double
9 damages), plus costs and reasonable attorneys' fees.

10 **SECOND CAUSE OF ACTION**

11 **FAILURE TO PAY MINIMUM WAGES IN VIOLATION OF CALIFORNIA**

12 **LABOR CODE §§ 1182.11-1182.13, 1194, 1194.2, AND 11197**

13 **(By Plaintiffs and the California Class Members Against All Defendants)**

14 52. Plaintiffs reallege and incorporate all preceding paragraphs, as though
15 set forth in full herein.

16 53. Defendants failed to pay the California Class Members minimum
17 wages for all hours worked. Specifically, Defendants had a common policy,
18 practice, and/or pattern of requiring the California Class Members to perform off-
19 the-clock work, under Defendants' employ including, but not limited to: working
20 from home; communicating with clients; attending work related events after
21 working hours; conducting independent study and homework; and attending
22 classroom sessions, all in excess of their scheduled shifts and for which they were
23 never paid wages. California Labor Code § 1197, entitled "Pay of Less Than
24 Minimum Wage," states:

25 The minimum wage for employees fixed by the
26 commission is the minimum wage to be paid to
employees, and the payment of a less wage than the
27 minimum so fixed is unlawful.
28

1 54. The applicable minimum wages fixed by the commission for work
2 during the relevant period is found in the Wage Orders. Pursuant to the Wage
3 Orders, Plaintiff Rowser and the California Class Members are therefore entitled to
4 double the minimum wage during the relevant period.

5 55. The minimum wage provisions of California Labor Code are
6 enforceable by private civil action pursuant to California Labor Code § 1194(a)
7 which states:

8 Notwithstanding any agreement to work for a lesser
9 wage, any employee receiving less than the legal
10 minimum wage or the legal overtime compensation
11 applicable to the employee is entitled to recover in a civil
12 action the unpaid balance of the full amount of this
minimum wage or overtime compensation, including
interest thereon, reasonable attorney's fees and costs of
suit.

13 56. As described in California Labor Code §§ 1185 and 1194.2, any action
14 for wages incorporates the applicable Wage Order of the California Industrial
15 Welfare Commission.

16 57. California Labor Code § 1194.2 also provides for the following
17 remedies:

18 In any action under Section 1194 . . . to recover wages
19 because of the payment of a wage less than the minimum
20 wages fixed by an order of the commission, an employee
shall be entitled to recover liquidated damages in an
amount equal to the wages unlawfully unpaid and interest
thereon.

22 58. Defendants have the ability to pay minimum wages for all time worked
23 and have willfully refused to pay such wages with the intent to secure for
24 Defendants a discount upon this indebtedness with the intent to annoy, harass,
25 oppress, hinder, delay, or defraud Plaintiff Rowser and the California Class
26 Members.

27 59. Wherefore, the California Class Members are entitled to recover the
28 unpaid minimum wages (including double minimum wages), liquidated damages in

1 an amount equal to the minimum wages unlawfully unpaid, interest thereon and
2 reasonable attorney's fees and costs of suit pursuant to California Labor Code §
3 1194(a).

4 **THIRD CAUSE OF ACTION**

5 **FAILURE TO PAY WAGES AND OVERTIME IN VIOLATION OF**
6 **CALIFORNIA LABOR CODE § 510**

7 **(By Plaintiffs and the California Class Members Against All Defendants)**

8 60. Plaintiffs reallege and incorporate all preceding paragraphs, as though
9 set forth in full herein.

10 61. By their conduct, as set forth herein, Defendants violated California
11 Labor Code § 510 (and the relevant orders of the Industrial Welfare Commission)
12 by failing to pay the California Class Members: (a) time and one-half their regular
13 hourly rates for hours worked in excess of eight (8) hours in a workday or in excess
14 of forty (40) hours in any workweek.

15 62. Specifically, Defendants had a consistent policy, practice, and/or
16 pattern of not paying the California Class Members overtime. The California Class
17 Members consistently worked in excess of eight (8) hours a day, and/or forty (40)
18 hours a week. However, the California Class Members were paid a lump sum, at
19 straight time, for all hours worked. Additionally, as discussed above, the California
20 Class Members were required to work off-the-clock hours without pay including
21 working from home; communicating with clients; attending work related events
22 after working hours; conducting independent study and homework; and attending
23 classroom sessions, all in excess of their scheduled shifts and for which they were
24 never paid wages. These uncompensated working hours caused the California Class
25 Members to work in excess of eight (8) hours on a given day, and/or forty (40)
26 hours in a given week, further entitling the California Class Members to overtime
27 wages which they were never paid.

28

1 63. Defendants' failure to pay compensation in a timely fashion also
2 constituted a violation of California Labor Code § 204, which requires that all wages
3 shall be paid semimonthly. From four (4) years prior to the filing of this lawsuit to
4 the present, in direct violation of that provision of the California Labor Code,
5 Defendants have failed to pay all wages and overtime compensation earned by the
6 California Class Members. Each such failure to make a timely payment of
7 compensation to the California Class Members constitutes a separate violation of
8 California Labor Code § 204.

9 64. Moreover, given Defendants' foregoing violations, Defendants also
10 violated California Labor Code § 1174 requiring employers to keep records showing
11 payroll records and the hours worked daily by and the wages paid to employees.

12 65. The California Class Members have been damaged by these violations
13 of California Labor Code §§ 204 and 510 (and the relevant orders of the Industrial
14 Welfare Commission).

15 66. Consequently, pursuant to California Labor Code §§ 204, 510, and
16 1194 (and the relevant orders of the Industrial Welfare Commission), Defendants
17 are liable to the California Class Members for the full amount of all their unpaid
18 wages and overtime compensation, with interest, plus their reasonable attorneys'
19 fees and costs.

FOURTH CAUSE OF ACTION

MEAL PERIOD LIABILITY UNDER CALIFORNIA LABOR CODE § 226.7

(By Plaintiffs and the California Class Members Against All Defendants)

23 67. Plaintiffs reallege and incorporate all preceding paragraphs, as though
24 set forth in full herein.

25 68. The California Class Members regularly worked shifts greater than five
26 (5) hours. Pursuant to California Labor Code § 512 an employer may not employ
27 someone for a shift of more than five (5) hours without providing him or her with a
28 meal period of not less than thirty (30) minutes.

1 69. Defendants had a common policy, practice, and/or pattern of failing to
2 provide the California Class Members with meal periods as required under the
3 California Labor Code. Specifically, the California Class Members were required to
4 work through their meal periods, nor were they afforded the opportunity to take
5 uninterrupted meal periods in accordance with Cal. California Labor Code § 512.
6 Moreover, many meal periods the California Class Members did receive were less
7 than 30 minutes, all in violation of the California Labor Code and applicable Wage
8 Orders. Moreover, Defendants failed to compensate the California Class Members
9 for each meal period not provided or inadequately provided, in the form of
10 “premium pay” as required under California Labor Code § 226.7.

11 70. Therefore, pursuant to California Labor Code § 226.7, the California
12 Class Members are entitled to damages in an amount equal to one (1) hour of wages
13 at their effective hourly rates of pay for each meal period not provided or deficiently
14 provided, a sum to be proven at trial.

FIFTH CAUSE OF ACTION

REST BREAK LIABILITY UNDER CALIFORNIA LABOR CODE § 226.7

(By Plaintiffs and the California Class Members Against All Defendants)

18 71. Plaintiffs reallege and incorporate all preceding paragraphs, as though
19 set forth in full herein.

20 72. The California Class Members consistently worked consecutive four
21 (4) hour shifts. Pursuant to the California Labor Code and the applicable IWC Wage
22 Order, Employees were entitled to paid rest breaks of not less than ten (10) minutes
23 for each consecutive four (4) hour shift.

24 73. Defendants had a common policy, practice, and/or pattern of failing to
25 provide the California Class Members with timely rest breaks of not less than ten
26 (10) minutes for each consecutive four (4) hour shift.

27 74. Moreover, Defendants did not compensate the California Class
28 Members with an additional hour of pay at each the California Class Members'

1 effective hourly rate for each day that Defendants failed to provide them with
2 adequate rest breaks, as required under California Labor Code § 226.7.

3 75. Therefore, pursuant to California Labor Code § 226.7, the California
4 Class Members are entitled to damages in an amount equal to one (1) hour of wages
5 at their effective hourly rates of pay for each day worked without the required rest
6 breaks, a sum to be proven at trial.

7 **SIXTH CAUSE OF ACTION**

8 **FAILURE TO REIMBURSE FOR NECESSARY EXPENDITURES IN**
9 **VIOLATION OF CALIFORNIA LABOR CODE § 2802**

10 **(By Plaintiffs and the California Class Members Against All Defendants)**

11 76. Plaintiffs reallege and incorporate all preceding paragraphs, as though
12 set forth in full herein.

13 77. Under California Labor Code § 2802(a), an employer must indemnify
14 its employees for all necessary expenditures or losses incurred by the employee in
15 direct consequence of the discharge of his or her duties, or of his or her obedience to
16 the directions of the employer.

17 78. Defendants had a common policy, practice, and/or pattern of
18 consistently failing to reimburse the California Class Members for these necessarily
19 incurred business expenses. The California Class Members incurred necessary
20 expenditures in the performance of their job duties for Defendants. Specifically, the
21 California Class Members had to purchase computers and cellular telephone service
22 to perform their duties under Defendants' employ, including but not limited to,
23 communicating with clients, performing at home work study, and responding to
24 emails. The California Class Members also incurred expenses in the form of gas and
25 mileage for driving to work related events, discussed herein. All the forgoing
26 expenses were incurred by the California Class Members in order to execute their
27 duties under Defendants' employ, and for which they were never reimbursed.

1 79. As a result of the unlawful acts of Defendants, the California Class
2 Members have been deprived of reimbursement in amounts to be determined at trial;
3 they are entitled to recovery of such amounts, plus interest and penalties thereon,
4 attorneys' fees, and costs.

SEVENTH CAUSE OF ACTION

WAITING TIME PENALTIES UNDER CALIFORNIA LABOR CODE § 203

(By Plaintiffs and the California Class Members Against All Defendants)

8 80. Plaintiffs reallege and incorporate all preceding paragraphs, as though
9 set forth in full herein.

10 81. Numerous California Class Members are no longer employed by
11 Defendants; they either quit Defendants' employ or were fired therefrom.

12 82. In failing to pay the California Class Members their minimum wages,
13 overtime wages, premium pay for deficiently provided meal periods and rest breaks,
14 and unreimbursed expenses, all discussed above, Defendants willfully failed to pay
15 the California Class Members all wages due and certain at the time of termination or
16 within seventy-two (72) hours of resignation.

17 83. The wages withheld from these the California Class Members by
18 Defendants remained due and owing for more than thirty (30) days from the date of
19 separation of employment.

20 84. Defendants' failure to pay wages, as alleged above, was willful in that
21 Defendants knew wages to be due but failed to pay them; this violation entitles the
22 California Class Members to penalties under California Labor Code § 203, which
23 provides that an employee's wages shall continue until paid for up to thirty (30)
24 days from the date they were due.

25 | //

26 | //

27 | //

EIGHTH CAUSE OF ACTION

VIOLATION OF CALIFORNIA LABOR CODE § 226(a)

(By Plaintiffs and the California Class Members Against All Defendants)

85. Plaintiffs reallege and incorporate all preceding paragraphs, as though set forth in full herein.

86. California Labor Code § 226(a) requires an employer to furnish each of his or her employees with an accurate, itemized statement in writing showing, among other things: (2) total hours worked by the employee . . . (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. These statements must be appended to the detachable part of the check, draft, voucher, or whatever else serves to pay the employee's wages; or, if wages are paid by cash or personal check, these statements may be given to the employee separately from the payment of wages; in either case the employer must give the employee these statements twice a month or each time wages are paid.

87. Defendants failed to provide the California Class Members with accurate, itemized wage statements in writing as required by the California Labor Code. Specifically, the wage statements issued to the California Class Members failed to include the requisite information under Subsections (2) and (9) above. Additionally, the California Class Members' wage statements were further defective in that they failed to account for the unpaid wages, overtime, unreimbursed expenses, and premium pay for deficiently provided meal periods and rest breaks, all of which Defendants knew, or reasonably should have known, were owed to the California Class Members, as alleged above.

88. Moreover, in doing so, from at least one (1) year prior to the filing of this lawsuit and continuing to the present, Defendants failed to timely pay the California Class Members wages on a semimonthly basis as required under California Labor Code § 204. Defendants also failed to maintain records showing

1 accurate hours worked daily and the wages paid to the California Class Members, as
2 well as the meal and rest periods taken by the California Class Members, as required
3 by California Labor Code § 1174 and the applicable IWC wage orders.

4 89. As a direct and proximate cause of Defendants' violation of California
5 Labor Code § 226(a), the California Class Members suffered injuries, including
6 among other things confusion over whether they received all wages owed them, the
7 difficulty and expense involved in reconstructing pay records, and forcing them to
8 make mathematical computations to analyze whether the wages paid in fact
9 compensated them correctly for all hours worked.

10 90. Pursuant to California Labor Code §§ 226(a) and 226(e), the California
11 Class Members are entitled to recover the greater of all actual damages or fifty
12 dollars (\$50) for the initial pay period in which a violation occurs and one hundred
13 dollars (\$100) for each violation in a subsequent pay period, not exceeding an
14 aggregate penalty of four thousand dollars (\$4,000). They are also entitled to an
15 award of costs and reasonable attorneys' fees.

16 **NINTH CAUSE OF ACTION**

17 **UNFAIR COMPETITION UNDER CALIFORNIA BUSINESS AND**
18 **PROFESSIONS CODE § 17200, ET SEQ.**

19 **(By Plaintiffs and the California Class Members Against All Defendants)**

20 91. Plaintiffs reallege and incorporate all preceding paragraphs, as though
21 set forth in full herein.

22 92. Plaintiffs, on behalf of themselves, the California Class Members, and
23 the general public, brings this claim pursuant to California Business & Professions
24 Code § 17200, *et seq.* The conduct of Defendants as alleged in this Complaint has
25 been and continues to be unfair, unlawful, and harmful to the California Class
26 Members and the general public. Plaintiff seeks to enforce important rights affecting
27 the public interest within the meaning of Code of Civil Procedure § 1021.5.

28

1 93. Plaintiff Rowser is a “person” within the meaning of California
2 Business & Professions Code § 17204, has suffered injury, and therefore has
3 standing to bring this cause of action for injunctive relief, restitution, and other
4 appropriate equitable relief.

5 94. Business & Professions Code § 17200 *et seq.* prohibits unlawful and
6 unfair business practices.

7 95. Wage-and-hour laws express fundamental public policies. Paying
8 employees minimum wages, their wages, overtime, and reimbursements for
9 necessary expenditures, and providing them with meal periods, etc., are fundamental
10 public policies of California. California Labor Code § 90.5(a) articulates the public
11 policies of this State vigorously to enforce minimum labor standards, to ensure that
12 employees are not required or permitted to work under substandard and unlawful
13 conditions, and to protect law-abiding employers and their employees from
14 competitors who lower costs to themselves by failing to comply with minimum
15 labor standards.

16 96. Defendants have violated statutes and public policies. Through the
17 conduct alleged in this Complaint, Defendants have acted contrary to these public
18 policies, have violated specific provisions of the California Labor Code, and have
19 engaged in other unlawful and unfair business practices in violation of Business &
20 Professions Code § 17200 *et seq.*; which conduct has deprived Plaintiff, all
21 California Class Members, and all interested persons, of the rights, benefits, and
22 privileges guaranteed to all employees under the law.

23 97. Defendants’ conduct, as alleged hereinabove, constitutes unfair
24 competition in violation of the Business & Professions Code § 17200 *et seq.*

25 98. Defendants, by engaging in the conduct herein alleged, by failing to
26 pay wages, overtime, provide meal periods, etc., either knew or in the exercise of
27 reasonable care should have known that their conduct was unlawful; therefore, their
28 conduct violates the Business & Professions Code § 17200 *et seq.*

1 99. As a proximate result of the above-mentioned acts of Defendants,
2 Plaintiff and the California Class Members have been damaged, in a sum to be
3 proven at trial.

4 100. Unless restrained by this Court, Defendants will continue to engage in
5 such unlawful conduct as alleged above. Pursuant to the California Business &
6 Professions Code this Court should make such orders or judgments, including the
7 appointment of a receiver, as may be necessary to prevent the use by Defendants or
8 their agents or employees of any unlawful or deceptive practice prohibited by the
9 Business & Professions Code, including but not limited to the disgorgement of such
10 profits as may be necessary to restore the California Class Members to the money
11 Defendants have unlawfully failed to pay.

TENTH CAUSE OF ACTION

PENALTIES PURSUANT TO

CALIFORNIA LABOR CODE § 2699, ET SEQ.

(By Plaintiffs and the California Class Members Against All Defendants)

16 101. Plaintiffs reallege and incorporate all preceding paragraphs, as though
17 set forth in full herein.

18 102. Plaintiff Rowser and the California Class Members are aggrieved
19 employees as defined under California Labor Code § 2699(c) in that they suffered
20 the violations alleged in this Complaint and were employed by the alleged violators,
21 Defendants.

22 103. In failing to pay the California Class Members minimum wages and
23 overtime, failing to reimburse them for necessary business expenditures, failing to
24 provide them with proper meal and rest periods, in failing to provide accurate
25 itemized wage statements, and in failing to pay the California Class Members wages
26 upon termination or timely upon resignation, all discussed above, Defendants failed
27 to timely pay the California Class Members wages on a semimonthly basis, as
28 required under California Labor Code § 204. Defendants also failed to maintain

1 records showing accurate hours worked daily and the wages paid to the California
 2 Class Members, as required by California Labor Code § 1174 and the applicable
 3 IWC wage orders.

4 104. As such, the California Class Members seek wages and penalties under
 5 California Labor Code §§ 2698 and 2699 for Defendants' violation of all California
 6 Labor Code provisions included under California Labor Code § 2699.5 and
 7 including the penalty provisions, without limitation, based on the following
 8 California Labor Code sections: 201, 202, 203, 204, 226, 226.7, 510, 512, 558,
 9 1174, 1174.5, 1185, 1194, 1194.2, 1197, 1199, 2802, 2698, and 2699, *et seq.*

10 105. The penalties shall be allocated as follows: 75% to the Labor and
 11 Workforce Development Agency (LWDA) and 25% to the affected employee.

12 106. The California Class Members also seek any and all penalties and
 13 remedies set forth in California Labor Code § 558, which states:

14 (a) Any employer or other person acting on behalf of
 15 an employer who violates, or causes to be violated, a
 16 section of this chapter or any provision regulating hours
 17 and days of work in any order of the Industrial Welfare
 18 Commission shall be subject to a civil penalty as
 19 follows: (1) For any initial violation, fifty dollars (\$50)
 20 for each underpaid employee for each pay period for
 21 which the employee was underpaid in addition to an
 22 amount sufficient to recover underpaid wages. (2) For
 23 each subsequent violation, one hundred dollars (\$100)
 24 for each underpaid employee for each pay period for
 25 which the employee was underpaid in addition to an
 26 amount sufficient to recover underpaid wages. (3)
 27 Wages recovered pursuant to this section shall be paid to
 28 the affected employee.

25 (b) If upon inspection or investigation the Labor
 26 Commissioner determines that a person had paid or
 27 caused to be paid a wage for overtime work in violation
 28 of any provision of this chapter, or any provision
 regulating hours and days of work in any order of the
 Industrial Welfare Commission, the Labor

1 Commissioner may issue a citation. The procedures for
2 issuing, contesting, and enforcing judgments for
3 citations or civil penalties issued by the Labor
4 Commissioner for a violation of this chapter shall be the
5 same as those set out in Section 1197.1.

6 (c) The civil penalties provided for in this section are
7 in addition to any other civil or criminal penalty
8 provided by law.

9 107. Plaintiff Rowser has exhausted his administrative remedy by sending a
10 certified letter to the LWDA and Defendants postmarked on **June 13, 2017**. The
11 LWDA has not provided notice of its intent to investigate the alleged violations
12 within 65 calendar days of the postmark date of the letter.

13 **ELEVENTH CAUSE OF ACTION**

14 **PENALTIES PURSUANT TO**

15 **VIOLATION OF ILLINOIS WAGE PAYMENT AND COLLECTION ACT**

16 **(By Plaintiffs and the Illinois Class Members Against All Defendants)**

17 108. Plaintiffs reallege and incorporate all preceding paragraphs, as though
18 set forth in full herein.

19 109. Defendants failed to pay Plaintiff Gupta and the Illinois Class Members
20 their wages earned for all hours worked. This count arises under the IWPCA, 820
ILCS § 115/1 *et seq.*, for Defendants' failure and refusal to pay Plaintiff Gupta and
the Illinois Class Members all their wages earned.

21 110. Defendants employed Plaintiff Gupta and Illinois Class Members as
22 "employees," as that term is defined by Section 2 of the IWPCA, 820 ILCS § 11
23 5/2.

24 111. During the course of Plaintiff Gupta and the Illinois Class Members'
25 employment with Defendants, Defendants did not compensate Plaintiff Gupta and
26 the Illinois Class Members for all time worked.

27 112. Defendants' failure to pay Plaintiff Gupta and the Illinois Class
28 Members all their wages earned violated the IWPCA.

1 113. Plaintiff Gupta represents Illinois Class Members who have not been
2 paid for all their wages earned in the past ten (10) years, through and including the
3 present.

TWELFTH CAUSE OF ACTION
PENALTIES PURSUANT TO
VIOLATION OF ILLINOIS MINIMUM WAGE LAW

(By Plaintiffs and the Illinois Class Members Against All Defendants)

8 114. Plaintiffs reallege and incorporate all preceding paragraphs, as though
9 set forth in full herein.

10 115. Defendants failed to pay Plaintiff Gupta and the Illinois Class Members
11 overtime compensation pursuant to the provisions of the Illinois Minimum Wage
12 Law, 820 ILCS § 105/4a. Plaintiff Gupta brings this action on her own behalf and
13 on behalf of the Illinois Class Members pursuant to 820 ILCS § 105/12(a).

14 116. Defendants employed Plaintiff Gupta and Illinois Class Members as
15 "employees," as that term is defined by Section 3 of the IMWL, 820 ILCS § 105/3d.

16 117. Defendants employed Plaintiff Gupta and Illinois Class Members as
17 “employees,” as that term is defined Section 3(d) of the IMWL, 820 ILCS §
18 105/3(d).

19 118. At all relevant times, Defendants were an “employer” of Plaintiff Gupta
20 and Illinois Class Members, as that term is defined by Section 3(c) of the IMWL,
21 820 ILCS § 105/3(c).

22 119. Pursuant to 820 ILCS § 105/4(a), for all weeks during which Plaintiff
23 Gupta and the Illinois Class Members worked in excess of forty (40) hours, Plaintiff
24 Gupta and Illinois Class Members were entitled to be compensated at one and one-
25 half times their regular hourly rate of pay for all time worked in excess of forty (40)
26 hours per week.

1 120. Defendants did not pay Plaintiff Gupta and the Illinois Class Members
2 one and one-half times their regular hourly rate of pay for all time worked in excess
3 of forty (40) hours per week.

4 121. Defendants violated the Illinois Minimum Wage Law by refusing to
5 compensate Plaintiff Gupta and Illinois Class Members at one and one-half times
6 their regular hourly rate of pay for all time worked in excess of forty (40) hours per
7 week.

8 122. Pursuant to 820 ILCS § 105/12(a), Plaintiff Gupta and Illinois Class
9 Members are entitled to recover punitive damages in the amount of two percent
10 (2%) per month of the amount of under payments.

11 123. During the course of Plaintiff Gupta and the Illinois Class Members'
12 employment with Defendants, Defendants did not compensate Plaintiff Gupta and
13 the Illinois Class Members for all overtime.

14 124. Defendants' failure to pay Plaintiff Gupta and the Illinois Class
15 Members all their wages earned violated the IMWL.

16 125. Plaintiff Gupta represents Illinois Class Members who have not been
17 paid for all their wages earned in the past ten (10) years, through and including the
18 present.

PRAYER FOR RELIEF

20 WHEREFORE, Plaintiffs request the following relief:

As to the FLSA Class

22 1. An Order certifying this case as a collective action in accordance with
23 29 U.S.C. § 216(b) with respect to the FLSA claims set forth herein (Count I);

24 2. For an order appointing Plaintiffs as representatives of the FLSA Class
25 3. For an Order appointing Counsel for Plaintiffs as Counsel for the FLSA
26 Class;

27 4. Upon Count I, for compensatory, consequential, general, and special
28 damages pursuant 29 U.S.C. §§ 207 and 216;

1 5. Liquidated damages and pre- and post-judgment interest on all due and
2 unpaid wages pursuant to 29 U.S.C. §§ 207 and 216;

3 6. Attorneys' fees and costs as provided by 29 U.S.C. §§ 206, 207, and
4 216; and

5 7. For such other and further relief the Court may deem proper

6 **As to the California Class**

7 8. For an order certifying this action as a class action under F.R.C.P. Rule
8 23, and appointment of Plaintiff Rowser and Plaintiff's counsel to represent the
9 California Class;

10 9. For an order appointing Plaintiff Rowser as the representative of the
11 California Class;

12 10. For an order appointing Plaintiff's counsel as class counsel for the
13 California Class;

14 11. For compensatory damages, under California Labor Code § 1194, in
15 the amount of the unpaid minimum wages for work performed by Plaintiff and
16 unpaid overtime compensation from at least four (4) years prior to the filing of this
17 action, according to proof;

18 12. For liquidated damages, under California Labor Code § 1194.2, in the
19 amount equal to the unpaid minimum wage and interest thereon, from at least four
20 (4) years prior to the filing of this action, according to proof;

21 13. For compensatory damages, under California Labor Code §§ 510 and
22 1194, in the amount of all unpaid wages, including overtime, as may be proven;

23 14. For compensatory damages, under California Labor Code § 226.7, in
24 the amount of the hourly wage made by the California Class Members for each
25 missed or deficient meal period where no premium pay was paid therefor from four
26 (4) years prior to the filing of this action, as may be proven;

27 15. For compensatory damages, under California Labor Code § 226.7, in
28 the amount of the hourly wage made by the California Class Members for each

1 missed or deficient rest breaks where no premium pay was paid therefore from four
2 (4) years prior to the filing of this action, as may be proven;

3 16. For compensatory damages, under California Labor Code § 2802, in
4 the amount of all unreimbursed expenses, incurred by the California Class
5 Members, from four (4) years prior to the filing of this action, as may be proven;

6 17. For penalties pursuant to California Labor Code § 226(e), as may be
7 proven;

8 18. For penalties pursuant to California Labor Code § 203, as may be
9 proven;

10 19. For restitution for unfair competition pursuant to Business &
11 Professions Code § 17200 *et seq.*, including disgorgement or profits, as may be
12 proven;

13 20. For an order enjoining Defendants and their agents, servants, and
14 employees, and all persons acting under, in concert with, or for them, from acting in
15 derogation of any rights or duties adumbrated in this Complaint;

16 21. For wages and penalties under California Labor Code § 558, as may be
17 proven;

18 22. For penalties pursuant to California Labor Code § 2699, *et seq.*, as may
19 be proven;

20 23. For all general, special, and incidental damages as may be proven;

21 24. For punitive damages, subject to proof;

22 25. For an award of pre-judgment and post-judgment interest;

23 26. For an award providing for the payment of the costs of this suit;

24 27. For an award of attorneys' fees; and

25 28. For such other and further relief as this Court may deem proper and
26 just.

27 **As to the Illinois Class**

28 29. For an order certifying this action as a class action;

1 30. For an order appointing Plaintiff Gupta as the representative of the
2 Illinois Class;

3 31. For an order appointing Plaintiffs' counsel as class counsel for the
4 Illinois Class;

5 32. A judgment in the amount of all back wages due, as provided by the
6 Illinois Wage Payment and Collection Act;

7 33. Statutory damages pursuant to the formula set forth in 820 ILCS
8 §115/14(a);

9 34. A judgment in the amount of one and one-half times Plaintiff's and the
10 Illinois Class Members' regular rate for all time they worked in excess of forty (40)
11 hours per week;

12 35. Statutory damages pursuant to the formula set forth in 820 ILCS §
13 105/12(a);

14 36. Reasonable attorneys' fees and costs incurred in filing this action; and
15 37. Such other and further relief as this Court deems appropriate and just.

18 | Dated: June 26, 2018

DAVID YEREMIAN & ASSOCIATES, INC.

By: _____ /s/ David Yeremian
David Yeremian
Alvin B. Lindsay
Attorneys for Plaintiffs
and the putative classes

JURY DEMAND

Plaintiffs, Darius Rowser and Amita Gupta, individually and on behalf of all others similarly situated, by and through their attorneys, hereby demand a trial by jury.

Dated: June 26, 2018

DAVID YEREMIAN & ASSOCIATES, INC.

By: /s/ David Yeremian

David Yeremian

Alvin B. Lindsay

Attorneys for Plaintiffs
and the putative classes